



U.S. Department of Justice

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PRESS RELEASE
FEDERAL COMPLAINT CHARGES
TWO INDIVIDUALS, INTERNET BUSINESS
WITH SELLING OBSCENE MATERIAL

SALT LAKE CITY – A federal complaint unsealed Thursday morning charges Sami R. Harb and Michael Harb, doing business as Movies by Mail, an internet sales business located in Cleveland, Ohio, with one count of selling obscene material, U.S. Attorney Brett L. Tolman of the District of Utah and Salt Lake City FBI Special Agent in Charge Timothy Fuhrman announced today.

A summons will be issued to the Harbs to appear before Magistrate Judge Paul Warner in U.S. District Court in Salt Lake City on June 29, 2007, at 10:30 a. m. The potential maximum penalty for a conviction under the obscenity charge is five years in federal prison. Defendants charged in complaints are presumed innocent unless or until proven guilty in court.

The charge stems from a coordinated investigation and prosecution effort being conducted by the FBI's Adult Obscenity Task Force, which is part of the FBI's Washington, D.C. field office; the Department of Justice's Obscenity Prosecution Task Force; the U.S. Attorney's Office in Cleveland,

Ohio; FBI special agents in Utah and Ohio; the U.S. Postal Inspection Service and the U.S. Attorney's Office in Utah.

"The U.S. Department of Justice and U.S. Attorneys' Offices nationwide have stepped up the prosecution of obscenity cases, as evidence increases of the harm of obscenity to American children and families. As obscene materials continue to proliferate, they are becoming more accessible for the young and the innocent among us. At the same time they are becoming more extreme and degrading in content and present a growing threat to the well being of American families and our society as a whole," U.S. Attorney Brett L. Tolman said today.

The complaint alleges the defendants engaged in the business of selling or transferring obscene material.

Tolman said that obscene depictions of sexual conduct are subject to federal criminal laws regarding importation, transportation and distribution. The United States Supreme Court, in Miller v. California, 413 U.S. 15 (1973), established a three-part test for determining whether a depiction is obscene:

1. Whether the average person would find that the work, taken as a whole and applying contemporary community standards, appeals to the prurient interest;
2. Whether the work depicts or describes sexual conduct in a patently offensive way, when applying contemporary community standards; and
3. Whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

"This charge was initiated by complaint. It will now be up to a grand jury, in the exercise of its independent judgment, to decide if there is probable cause to believe the material is obscene in considering an indictment. Ultimately, a Utah jury will decide if the material is obscene," Tolman said.

According to the complaint, the investigation started in August 2006, when agents working as a part of the FBI's Adult Obscenity Task Force in Washington, D.C., received information that Movies By Mail was offering

pornographic movies for sale via an internet service located at a website. Agents working with the task force purchased DVDs on the internet site and the investigation continued.

According to United States Postal Service shipping records, Movies By Mail delivered 683 packages to Utah between January 3, 2006, and December 11, 2006. The complaint says 149 of those packages were shipped directly into Salt Lake City.

In March 2007, an FBI agent working in Salt Lake City placed an online order for the purchase of DVDs from the company. Three of the DVDs sent to the agent in Salt Lake City were deemed to be obscene, the complaint alleges. The complaint includes a summary of the three DVDs.

The case is being prosecuted by Trial Attorney Kenneth Whitted of the Department of Justice's Obscenity Prosecution Task Force and Assistant U.S. Attorney Karin Fojtik of the District of Utah. Brent D. Ward, a former U.S. Attorney in Utah, is the director of the DOJ prosecution task force.

A copy of the complaint is attached.

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